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# HOUSE BILL No. 1330

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-4; IC 33-3-5-2.5; IC 34-6-2-38.

**Synopsis:** Independent reassessment of Lake County. Replaces each reference to the state board of tax commissioners in the Lake County independent appraiser law with the name of the appropriate successor agency. Provides procedures for payment of a claim of an independent appraiser. Expands the direct contempt powers of the tax court with respect to a failure to provide information to the department of local government finance or its contractor or to pay a bill of a contractor to cover a county township official with information necessary or useful for the completion of a general or special reassessment. Provides for the expiration of the provisions of law requiring the department of local government finance to conduct a general reassessment with an independent appraiser. Provides tort immunity to the independent appraiser. Makes related changes.

**Effective:** Upon passage.

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## Harris

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January 15, 2002, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1330

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 6-1.1-4-27.5, AS ADDED BY P.L.198-2001,  
2       SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 27.5. (a) The auditor of each county shall  
4       establish a property reassessment fund. The county treasurer shall  
5       deposit all collections resulting from the property taxes that the county  
6       is required to levy under this section in the county's property  
7       reassessment fund.  
8       (b) With respect to the general reassessment of real property which  
9       is to commence on July 1, 2004, the county council of each county  
10      shall, for property taxes due in the year in which the general  
11      reassessment is to commence and the two (2) years immediately  
12      preceding that year, levy against all the taxable property of the county  
13      an amount equal to one-third (1/3) of the estimated cost of the general  
14      reassessment.  
15      (c) With respect to a general reassessment of real property that is to  
16      commence on July 1, 2008, and each fourth year thereafter, the county  
17      council of each county shall, for property taxes due in the year that the

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1 general reassessment is to commence and the three (3) years preceding  
 2 that year, levy against all the taxable property in the county an amount  
 3 equal to one-fourth (1/4) of the estimated cost of the general  
 4 reassessment.

5 (d) The state board of tax commissioners or the department of local  
 6 government finance shall give to each county council notice, before  
 7 January 1 **in a year** of the tax levies required by this section **for that**  
 8 **year.**

9 (e) The state board of tax commissioners or the department of local  
 10 government finance may raise or lower the property ~~taxes levied tax~~  
 11 **levy** under this section for a year if the state board or the department  
 12 determines it is appropriate because the estimated cost of ~~the a~~ general  
 13 reassessment, **including a general reassessment to be completed for**  
 14 **the March 1, 2002, assessment date,** has changed.

15 (f) If the county council determines that there is insufficient money  
 16 in the county's reassessment fund to pay all expenses (as permitted  
 17 under ~~section sections 28 28.5 and 32~~ of this chapter) relating to the  
 18 general reassessment of real property commencing July 1, 2000, the  
 19 county may, for the purpose of paying expenses (as permitted under  
 20 ~~section sections 28 28.5 and 32~~ of this chapter) relating to the general  
 21 reassessment commencing July 1, 2000, use money deposited in the  
 22 fund from ~~taxes levied in the tax levy under this section for~~ 2000 or  
 23 a later year.

24 SECTION 2. IC 6-1.1-4-32, AS ADDED BY P.L.151-2001,  
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 UPON PASSAGE]: Sec. 32. (a) **As used in this section, "contract"**  
 27 **refers to a contract entered into under this section.**

28 (b) **As used in this section, "contractor" refers to a firm that**  
 29 **enters into a contract with the state board of tax commissioners**  
 30 **(before January 1, 2002) or the department of local government**  
 31 **finance (after December 31, 2001) under this section.**

32 (c) As used in this section, "qualifying county" means a county  
 33 having a population of more than four hundred thousand (400,000) but  
 34 less than seven hundred thousand (700,000).

35 ~~(b)~~ (d) Notwithstanding ~~IC 6-1.1-4-15~~ **sections 15** and  
 36 ~~IC 6-1.1-4-17~~, **17 of this chapter** a township assessor in a qualifying  
 37 county may not appraise property, or have property appraised, for the  
 38 general reassessment of real property to be completed for the March 1,  
 39 2002, assessment date. Completion of that general reassessment in a  
 40 qualifying county is instead governed by this section. The only duty of:

- 41 (1) a township assessor in a qualifying county; or
- 42 (2) a county assessor of a qualifying county;

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with respect to that general reassessment is to provide to the ~~state board~~  
~~department of tax commissioners~~ **local government finance** or the  
~~state board's department's~~ contractor under subsection ~~(c)~~ **(e)** any  
support and information requested by the state board **(before January**  
**1, 2002), department (after December 31, 2001),** or the contractor.  
**This subsection expires June 30, 2004.**

~~(c)~~ **(e)** The state board of tax commissioners **(before January 1,**  
**2002) and the department of local government finance (after**  
**December 31, 2001)** shall select and contract with a nationally  
recognized certified public accounting firm with expertise in the  
appraisal of real property to appraise property for the general  
reassessment of real property in a qualifying county to be completed for  
the March 1, 2002, assessment date. **The department of local**  
**government finance may enter into additional contracts to provide**  
**software or other auxiliary services to be used for the appraisal of**  
**property for the general reassessment.** The contract applies for the  
appraisal of land and improvements with respect to all classes of real  
property in the qualifying county. The contract must include:

- (1) a provision requiring the appraisal firm to:
  - (A) prepare a detailed report of:
    - (i) expenditures made after July 1, 1999, and before the date  
of the report from the qualifying county's reassessment fund  
under ~~IC 6-1.1-4-28~~; **section 28 of this chapter (repealed);**  
and
    - (ii) the balance in the reassessment fund as of the date of the  
report; and
  - (B) file the report with:
    - (i) the legislative body of the qualifying county;
    - (ii) the prosecuting attorney of the qualifying county;
    - (iii) the ~~state board department of tax commissioners;~~ **local**  
**government finance;** and
    - (iv) the attorney general;
- (2) a fixed date by which the appraisal firm must complete all  
responsibilities under the contract;
- (3) **subject to subsection (t),** a provision requiring the appraisal  
firm to use the land values determined for the qualifying county  
under ~~IC 6-1.1-4-13.6~~; **section 13.6 of this chapter;**
- (4) a penalty clause under which the amount to be paid for  
appraisal services is decreased for failure to complete specified  
services within the specified time;
- (5) a provision requiring the appraisal firm to make periodic  
reports to the ~~state board department of tax commissioners;~~ **local**



**government finance;**

(6) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision (5) are to be made;

(7) a precise stipulation of what service or services are to be provided;

(8) a provision requiring the appraisal firm to deliver a report of the assessed value of each parcel in a township in the qualifying county to the ~~state board department of tax commissioners;~~ **local government finance;** and

(9) any other provisions required by the ~~state board department of tax commissioners;~~ **local government finance.**

**After December 31, 2001, the department of local government finance has all the powers and duties of the state board of tax commissioners provided under a contract entered into under this subsection (as effective before January 1, 2002) before January 1, 2002. The contract is valid to the same extent as if it were entered into by the department of local government finance. However, a reference in the contract to the state board of tax commissioners shall be treated as a reference to the department of local government finance. The contract shall be treated for all purposes, including the application of IC 33-3-5-2.5, as the contract of the department of local government finance. This subsection expires June 30, 2004.**

~~(d)~~ **(f)** After receiving the report of assessed values from the appraisal firm **acting under a contract described in subsection (e),** the ~~state board department of tax commissioners~~ **local government finance** shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of reassessment is subject to appeal by the taxpayer to the ~~state Indiana board of tax commissioners.~~ Except as provided in subsection ~~(e);~~ **(g),** the procedures and time limitations that apply to an appeal to the ~~state Indiana board of tax commissioners~~ of a determination of the county property tax assessment board of appeals under IC 6-1.1-15 apply to an appeal under this subsection. A determination by the ~~state Indiana board of tax commissioners~~ of an appeal under this subsection is subject to appeal to the tax court under IC 6-1.1-15. **This subsection expires on the later of June 30, 2004, or the date a final determination is entered in the last pending appeal filed under this subsection.**

~~(e)~~ **(g)** In order to obtain a review by the ~~state Indiana board of tax commissioners~~ under subsection ~~(d);~~ **(f),** the taxpayer must file a

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petition for review with the appropriate county assessor within forty-five (45) days after the notice of the ~~state board department of tax commissioners~~ **local government finance** is given to the taxpayer under subsection ~~(d)~~: **(f). This subsection expires June 30, 2004.**

~~(f)~~ **(h)** The ~~state board department of tax commissioners~~ **local government finance** shall mail the notice required by subsection ~~(d)~~ **(f)** within ninety (90) days after the ~~board department of local government finance~~ receives the report for a parcel from the professional appraisal firm. **This subsection expires June 30, 2004.**

~~(g)~~ **(i)** The **qualifying county** shall pay the cost of ~~a~~ any contract under this section ~~shall be paid without appropriation~~ from the **county** property reassessment fund. ~~of the qualifying county established under IC 6-1.1-4-27.~~ A contractor may periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

- (1)** submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;
- (2)** obtains from the department of local government finance:
  - (A)** approval of the form and amount of the bill; and
  - (B)** a certification that the billed goods and services billed for payment have been received and comply with the contract; and
- (3)** files with the county auditor of the qualifying county:
  - (A)** a duplicate copy of the bill submitted to the department of local government finance;
  - (B)** the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and
  - (C)** the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the



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qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection. This subsection expires June 30, 2004.

(j) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the state board of tax commissioners **(before January 1, 2002) and the department of local government finance (after December 31, 2001)** under this section:

- (1) The commissioner of the **Indiana** department of administration.
- (2) The director of the budget agency.
- (3) The attorney general.
- (4) The governor.

(k) With respect to a general reassessment of real property to be completed under ~~IC 6-1.1-4.4~~ **section 4 of this chapter** for an assessment date after the March 1, 2002, assessment date, the ~~state board department of tax commissioners~~ **local government finance** shall initiate a review with respect to the real property in a qualifying county or a township in a qualifying county, or a portion of the real property in a qualifying county or a township in a qualifying county. The ~~state board department of local government finance~~ may contract to have the review performed by an appraisal firm. The ~~state board department of local government finance~~ or its contractor shall determine for the real property under consideration and for the qualifying county or township the variance between:

- (1) the total assessed valuation of the real property within the qualifying county or township; and
- (2) the total assessed valuation that would result if the real property within the qualifying county or township were valued in



the manner provided by law.

(j) (l) If:

(1) the variance determined under subsection (j) (k) exceeds ten percent (10%); and

(2) the ~~state board department of tax commissioners local government finance~~ determines after holding hearings on the matter that a special reassessment should be conducted;

the ~~state board department of local government finance~~ shall contract for a special reassessment by an appraisal firm to correct the valuation of the property.

~~(k)~~ (m) If the variance determined under subsection (j) (k) is ten percent (10%) or less, the ~~state board department of tax commissioners local government finance~~ shall determine whether to correct the valuation of the property under:

(1) sections 9 and 10 of this chapter; or

(2) IC 6-1.1-14-10 and IC 6-1.1-14-11.

(j) (n) The ~~state board department of tax commissioners local government finance~~ shall give notice by mail to a taxpayer of a hearing concerning the ~~state board's intent of the department of local government finance~~ to cause the taxpayer's property to be reassessed under this section. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed. The ~~state board department of local government finance~~ may conduct a single hearing under this section with respect to multiple properties. The notice must state:

(1) the time of the hearing;

(2) the location of the hearing; and

(3) that the purpose of the hearing is to hear taxpayers' comments and objections with respect to the ~~state board's intent of the department of local government finance~~ to reassess property under this chapter.

~~(m)~~ (o) If the ~~state board department of tax commissioners local government finance~~ determines after the hearing that property should be reassessed under this section, the ~~state board department of local government finance~~ shall:

(1) cause the property to be reassessed under this section;

(2) mail a certified notice of its final determination to the county auditor of the qualifying county in which the property is located; and

(3) notify the taxpayer by mail of its final determination.

~~(n)~~ (p) A reassessment may be made under this section only if the notice of the final determination under subsection (j) (n) is given to the





taxpayer within the same period prescribed in IC 6-1.1-9-3 or IC 6-1.1-9-4.

(q) If the ~~state board~~ **department of tax commissioners local government finance** contracts for a special reassessment of property under this section, the ~~state board shall forward the bill for services of the contractor to the county auditor; and the~~ **qualifying** county shall pay the bill, **without appropriation**, from the county **property** reassessment fund. **A contractor may periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:**

- (1) **submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;**
- (2) **obtains from the department of local government finance:**
  - (A) **approval of the form and amount of the bill; and**
  - (B) **a certification that the billed goods and services billed for payment have been received and comply with the contract; and**
- (3) **files with the county auditor of the qualifying county:**
  - (A) **a duplicate copy of the bill submitted to the department of local government finance;**
  - (B) **the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and**
  - (C) **the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.**

**An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication**



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requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(p) (r) A township assessor in a qualifying county or a county assessor of a qualifying county official (as defined in IC 33-3-5-2.5) shall provide information requested in writing by the state board department of tax commissioners local government finance or the state board's department's contractor under this section not later than seven (7) days after receipt of the written request from the state board department or the contractor. If a township assessor or county assessor qualifying official (as defined in IC 33-3-5-2.5) fails to provide the requested information within the time permitted in this subsection, the state board department of tax commissioners local government finance or the state board's department's contractor may seek an order of the tax court under IC 33-3-5-2.5 for production of the information.

(q) (s) The provisions of this section are severable in the manner provided in IC 1-1-1-8(b).

(t) A contract entered into under subsection (e) is subject to this subsection. A contractor shall use the land values determined for the qualifying county under section 13.6 of this chapter to the extent that the contractor finds that the land values reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. If the contractor finds that the land values determined for the qualifying county under section 13.6 of this chapter do not reflect the true tax value of land, the contractor shall determine land values for the qualifying county that reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. The land values determined by the contractor shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The contractor shall notify the county assessor and the township assessors in the qualifying county of the land values as modified under this subsection. This subsection expires June 30, 2004.



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SECTION 3. IC 33-3-5-2.5, AS ADDED BY P.L.151-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, "qualifying county" means a county having a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).

(b) As used in this section, "contractor" means ~~the~~ a general reassessment, **general reassessment review, or special reassessment** contractor of the ~~state board department of tax commissioners local government finance~~ under IC 6-1.1-4-32.

(c) As used in this section, "qualifying official" refers to any of the following:

- (1) A county assessor of a qualifying county.
- (2) A township assessor of a qualifying county.
- (3) The county auditor of a qualifying county.
- (4) The treasurer of a qualifying county.
- (5) The county surveyor of a qualifying county.
- (6) A member of the land valuation committee in a qualifying county.
- (7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a general reassessment, general reassessment review, or special reassessment of property to which IC 6-1.1-4-32 applies, including information in the possession or control of an employee or a contractor of the official.
- (8) Any county official in a qualifying county who has control, review, or other responsibilities related to paying claims of a contractor submitted for payment under IC 6-1.1-4-32.

(d) Upon petition from ~~(1) the state board department of tax commissioners; local government finance~~ or ~~(2) the a contractor~~, the tax court may order a ~~township assessor in a qualifying county or a county assessor of a qualifying county~~ **qualifying official** to:

- (1) produce information requested in writing from the ~~township assessor or county assessor~~ **qualifying official** by the ~~state board department of tax commissioners local government finance~~ or the contractor; or
- (2) pay a bill submitted to the qualifying county or a **qualifying official in conformity with IC 6-1.1-4-32.**

~~(d)~~ (e) If the tax court orders a ~~township assessor or county assessor~~ **qualifying official** to provide requested information or pay a bill as described in subsection ~~(b); (d)~~, the tax court shall order production of the information or payment of the bill not later than fourteen (14) days after the date of the tax court's order.

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(f) The tax court may find that any willful violation of this section by a ~~township assessor or county assessor~~ **qualifying official** constitutes a direct contempt of the tax court.

SECTION 4. IC 34-6-2-38, AS AMENDED BY P.L.250-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) "Employee" and "public employee", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or formerly acting on behalf of a governmental entity, whether temporarily or permanently or with or without compensation, including members of boards, committees, commissions, authorities, and other instrumentalities of governmental entities, volunteer firefighters (as defined in IC 36-8-12-2), and elected public officials.

(b) The term also includes attorneys at law whether employed by the governmental entity as employees or independent contractors and physicians licensed under IC 25-22.5 and optometrists who provide medical or optical care to confined offenders (as defined in IC 11-8-1) within the course of their employment by or contractual relationship with the department of correction. However, the term does not include:

- (1) an independent contractor (other than an attorney at law, a physician, or an optometrist described in this section);
- (2) an agent or employee of an independent contractor;
- (3) a person appointed by the governor to an honorary advisory or honorary military position; or
- (4) a physician licensed under IC 25-22.5 with regard to a claim against the physician for an act or omission occurring or allegedly occurring in the physician's capacity as an employee of a hospital.

(c) A physician licensed under IC 25-22.5 who is an employee of a governmental entity (as defined in IC 34-6-2-49) shall be considered a public employee for purposes of IC 34-13-3-3(21).

**(d) For purposes of IC 34-13-3 and IC 34-13-4, the term includes a person that engages in an act or omission before July 1, 2004, in the person's capacity as:**

- (1) a contractor under IC 6-1.1-4-32;**
- (2) an employee acting within the scope of the employee's duties for a contractor under IC 6-1.1-4-32;**
- (3) a subcontractor of the contractor under IC 6-1.1-4-32 that is acting within the scope of the subcontractor's duties; or**
- (4) an employee of a subcontractor described in subdivision (3) that is acting within the scope of the employee's duties.**

SECTION 5. An emergency is declared for this act.

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